

AMENDED IN SENATE JULY 10, 2013

AMENDED IN SENATE JUNE 24, 2013

AMENDED IN ASSEMBLY MAY 24, 2013

AMENDED IN ASSEMBLY APRIL 18, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 395

**Introduced by Assembly Member Fox
(Coauthor: Assembly Member Chesbro)**

February 15, 2013

An act to amend Sections 11834.02 and 11834.36 of, *to add Section 11834.04 to, and to add and repeal Section 11834.05 of*, the Health and Safety Code, relating to alcohol and drug programs.

LEGISLATIVE COUNSEL'S DIGEST

AB 395, as amended, Fox. Alcoholism and drug abuse treatment facilities.

Existing law requires the State Department of ~~Alcohol and Drug Programs~~ *Health Care Services* to license adult alcoholism and drug abuse recovery or treatment facilities, as defined.

This bill would include in the definition of alcoholism and drug abuse recovery and treatment facilities a premises, place, or building that provides 24-hour residential services to adults who are recovering from problems related to alcohol, drug, or alcohol and drug misuse or abuse and who need alcohol, drug, or alcohol and drug recovery treatment or detoxification services and medical care under specified circumstances. *The bill would authorize a facility to provide medical services exclusively to residents of the facility and in specified limited*

circumstances. The bill, until January 1, 2018, would also require the department to conduct an evaluation of the program licensing alcoholism and drug abuse recovery and treatment facilities that provides 24-hour residential services to adults who need alcohol, drug, or alcohol and drug recovery treatment or detoxification services and medical care and would require the department, on or before January 1, 2016, to report to the appropriate fiscal and policy committees of the Legislature.

Existing law provides that the State Department of ~~Alcohol and Drug Programs~~ *Health Care Services* has the sole authority in state government to license adult alcoholism or drug abuse recovery or treatment facilities. Existing law authorizes the director of the department to suspend or revoke any license issued, or deny an application for licensure, for extension of the licensing period, or to modify the terms and conditions of a license under specified circumstances, including conduct in the operation of an alcoholism or drug abuse recovery or treatment facility that is inimical to the health, morals, welfare, or safety of either an individual in, or receiving services from, the facility or to the people of the State of California.

This bill would revise that circumstance to instead apply to conduct in the operation of an alcoholism or drug abuse recovery or treatment facility that endangers the health or safety of an individual receiving services. The bill would also revise the list of circumstances described above to include the failure to report to the department, within 24 hours, the death of a resident for any cause, even if the death did not occur at the facility.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 11834.02 of the Health and Safety Code
- 2 is amended to read:
- 3 11834.02. (a) As used in this chapter, “alcoholism or drug
- 4 abuse recovery or treatment facility” or “facility” means either of
- 5 the following:
- 6 (1) A premises, place, or building that provides 24-hour
- 7 residential nonmedical services to adults who are recovering from
- 8 problems related to alcohol, drug, or alcohol and drug misuse or

1 abuse, and who need alcohol, drug, or alcohol and drug recovery
2 treatment or detoxification services.

3 (2) A premises, place, or building that provides 24-hour
4 residential services to adults who are recovering from problems
5 related to alcohol, drug, or alcohol and drug misuse or abuse and
6 who need alcohol, drug, or alcohol and drug recovery treatment
7 or detoxification services and medical care if the premises, place,
8 or building is not a chemical recovery dependency hospital
9 pursuant to Section 1250.3, is accredited by a nationally recognized
10 accrediting organization, and uses a multidisciplinary team that
11 includes at least one physician and surgeon, licensed by the
12 Medical Board of California or the Osteopathic Medical Board,
13 who is knowledgeable about addiction medicine.

14 (b) As used in this chapter, “adults” includes, but is not limited
15 to, ~~all~~ both of the following:

16 (1) Mothers over 18 years of age and their children.

17 (2) Emancipated minors, which may include, but is not limited
18 to, mothers under 18 years of age and their children.

19 (c) As used in this chapter, “emancipated minors” means persons
20 under 18 years of age who have acquired emancipation status
21 pursuant to Section 7002 of the Family Code.

22 (d) Notwithstanding subdivision (a), an alcoholism or drug
23 abuse recovery or treatment facility may serve adolescents upon
24 the issuance of a waiver granted by the department pursuant to
25 regulations adopted under subdivision (c) of Section 11834.50.

26 *SEC. 2. Section 11834.04 is added to the Health and Safety*
27 *Code, to read:*

28 *11834.04. (a) An alcoholism or drug abuse recovery or*
29 *treatment facility may provide medical services by a physician*
30 *exclusively to residents of the facility for the purpose of assisting*
31 *in detoxification and treatment. The medical services provided*
32 *under this subdivision shall be limited to all of the following:*

33 *(1) Medical evaluation, psychiatric counseling, and prescription*
34 *of medications for assistance in detoxification.*

35 *(2) Additional psychiatric evaluation and counseling, if*
36 *necessary.*

37 *(3) Prescribing and monitoring of medications, including public*
38 *health inoculations.*

1 (4) *Obtaining medical histories and routine examinations for*
2 *general oversight of the medical conditions of residents within the*
3 *facility.*

4 (5) *Routine, noninvasive testing, including drawing blood*
5 *samples for laboratory examination and testing offsite.*

6 (b) *Nothing in this section shall be construed to permit the state*
7 *or a local government entity to require a facility to provide medical*
8 *services as a condition of licensure, funding, or other regulatory*
9 *supervision.*

10 SEC. 3. *Section 11834.05 is added to the Health and Safety*
11 *Code, to read:*

12 11834.05. (a) *The department shall conduct an evaluation of*
13 *the program licensing those alcoholism or drug abuse recovery*
14 *or treatment facilities identified in paragraph (2) of subdivision*
15 *(a) of Section 11834.02. On or before January 1, 2016, the*
16 *department shall submit a report on that evaluation to the*
17 *appropriate policy and fiscal committees of the Legislature.*

18 (b) *This section shall remain in effect only until January 1, 2018,*
19 *and as of that date is repealed, unless a later enacted statute, that*
20 *is enacted before January 1, 2018, deletes or extends that date.*

21 ~~SEC. 2.~~

22 SEC. 4. *Section 11834.36 of the Health and Safety Code is*
23 *amended to read:*

24 11834.36. (a) *The director may suspend or revoke any license*
25 *issued under this chapter, or deny an application for licensure, for*
26 *extension of the licensing period, or to modify the terms and*
27 *conditions of a license, upon any of the following grounds and in*
28 *the manner provided in this chapter:*

29 (1) *Violation by the licensee of any provision of this chapter or*
30 *regulations adopted pursuant to this chapter.*

31 (2) *Repeated violation by the licensee of any of the provisions*
32 *of this chapter or regulations adopted pursuant to this chapter.*

33 (3) *Aiding, abetting, or permitting the violation of, or any*
34 *repeated violation of, any of the provisions described in paragraph*
35 *(1) or (2).*

36 (4) *Conduct in the operation of an alcoholism or drug abuse*
37 *recovery or treatment facility that endangers the health or safety*
38 *of an individual receiving services.*

1 (5) Failure to report to the department, within 24 hours, the
2 death of a resident for any cause, even if the death did not occur
3 at the facility.

4 (6) Misrepresentation of any material fact in obtaining the
5 alcoholism or drug abuse recovery or treatment facility license.

6 (7) Failure to pay any civil penalties assessed by the department.

7 (b) The director may temporarily suspend any license prior to
8 any hearing when, in the opinion of the director, the action is
9 necessary to protect residents of the alcoholism or drug abuse
10 recovery or treatment facility from physical or mental abuse,
11 abandonment, or any other substantial threat to health or safety.
12 The director shall notify the licensee of the temporary suspension
13 and the effective date of the temporary suspension and at the same
14 time shall serve the provider with an accusation. Upon receipt of
15 a notice of defense to the accusation by the licensee, the director
16 shall, within 15 days, set the matter for hearing, and the hearing
17 shall be held as soon as possible. The temporary suspension shall
18 remain in effect until the time the hearing is completed and the
19 director has made a final determination on the merits. However,
20 the temporary suspension shall be deemed vacated if the director
21 fails to make a final determination on the merits within 30 days
22 after the department receives the proposed decision from the Office
23 of Administrative Hearings.